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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,038	12/11/2003	Jonathan T. Zempel	LOT920030019US1	8720
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EXAMINER BETTT, JACOB F				
ART UNIT 2169		PAPER NUMBER		
NOTIFICATION DATE 12/09/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hoffmanwarnick.com

### Office Action Summary

**Application No.**

10/734,038

**Applicant(s)**

ZEMPEL, JONATHAN T.

**Examiner**

Jacob F. Bétit

**Art Unit**

2169

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-10, 12-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 12-18 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Remarks*

1. In response to communications filed on 10 August 2009, claims 1, 9, 14, 18, and 20 are amended and claims 5, 11, and 19 are cancelled per applicant's request. Claims 1-4, 6-10, 12-18, and 20 are presently pending in the application.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-10, 12-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redmond et al. (U.S. patent application publication No. 2002/0095401) in view of Jacobs et al. (U.S. patent No. 6,678,791 B1).

As to claim 1, Redmond et al. teaches a method of tracking data, the method comprising: receiving a request from a client on at least one computing device, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item and the request includes a tracking type identifier (see paragraphs 0040-0041, "client systems request data" and see paragraph 0044, "SAO A" and "SAO B");

determining an identification of the particular tracked data item in the request using the at least one computing device (see paragraph 000039);

selecting a handler based on an identification of the particular tracked data item using the at least one computing device, wherein the selected handler provides the particular tracked data item to a data application (see paragraph 0042);

obtaining response data from the data application based on the tracked data item using the at least one computing device (see paragraph 0050),

wherein the obtaining includes retrieving at least one measurable objective associated with the tracked data item, and providing the at least one measurable objective to the data application (see paragraphs 0035 and 0040);

generating a response based on the response data using the handler using the at least one computing device, wherein the handler formats the response for a client based on the tracking type identifier (see paragraph 0055-0056);

storing the response in a recordable medium (0056, where it is implicit that if a response is transmitted to a client, the client will store it in some kind of memory when it is received, further it is implicit that the message exists somewhere in memory before it is transmitted).

While Redmond et al. discusses “flags indicating the requesting player or client”, (paragraph 0052) and “time-out programs which terminate connections between the player or client”, (see paragraph 0057), Redmond et al. does not distinctly disclose a session identifier and formatting a response based on the session identifier.

However, Jacobs et al. teaches this, see column 3, line 51 through column 4, line 8, (“session-aware cache ... responds differently to different requests”, “restricted for service to particular requests or request formats”, “different clients/user sessions”, and “include different session identifiers”) and see column 6, lines 46 through column 7, line 24, (“a cookie may

identify ... a client session” and “identify ‘level’ of client”). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Redmond et al. to include the teachings of Jacobs et al. because these teachings would allow for a record of who is connected to the system and what they have previously done while interacting with the system to influence future response.

As to claim 2, Redmond et al. as modified, teaches further comprising providing the response to the client (see Redmond et al., paragraph 0056).

As to claim 3, Redmond et al. as modified, teaches further comprising determining an identification of the particular client from which the request was received, wherein the selecting step is further based on the identification of the particular client (see Redmond et al., paragraph 0044).

As to claim 4, Redmond et al. as modified, teaches wherein the obtaining step includes: retrieving a trackable object associated with the tracked data item (see Redmond et al., paragraph 0042); and providing the trackable object to the data application (see Redmond et al., paragraph 0045-0047).

As to claim 6, Redmond et al. as modified, teaches wherein the generating step includes:

obtaining format data based on a response format (see Redmond et al., paragraph 0041);  
and  
formatting the response data using the format data (see Redmond et al., paragraph 0043).

As to claim 7, Redmond et al. as modified, teaches wherein the format data defines a predefined tracking standard (see Redmond et al., paragraph 0042).

As to claim 8, Redmond et al. as modified, teaches wherein the generating step includes:  
obtaining client data based on the client (see Redmond et al., paragraph 0050); and  
formatting the response data using the client data (see Redmond et al., paragraphs 0050-0052).

As to claim 9, Redmond et al. teaches a method of tracking data, the method comprising:  
receiving a request from a client on at least one computing device, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item and the request includes a tracking type identifier (see paragraphs 0040-0041 and see paragraph 0044, “SAO A” and “SAO B”);  
determining identifications of the particular tracked data item in the request and the particular client from which the request is received using the at least one computing device (see paragraph 0044 and 0045);

selecting the handler based on identifications of the particular tracked data item and the particular client using the at least one computing device, wherein the selected handler provides the particular tracked data item to a data application (see paragraph 0042);

obtaining response data for the tracked data item from the data application using the at least one computing device (see paragraph 0050),

wherein the obtaining includes retrieving at least one measurable objective associated with the tracked data item; and providing the at least one measurable objective to the data application (see paragraphs 0035 and 0040);

generating a response based on the response data using the handler using the at least one computing device, wherein the handler formats the response for the client based on the tracking type identifier (see paragraph 0055); and

providing the response to the client using the at least one computing device (see paragraph 0056).

While Redmond et al. discusses “flags indicating the requesting player or client”, (paragraph 0052) and “time-out programs which terminate connections between the player or client”, (see paragraph 0057), Redmond et al. does not distinctly disclose a session identifier and formatting a response based on the session identifier.

However, Jacobs et al. teaches this, see column 3, line 51 through column 4, line 8, (“session-aware cache ... responds differently to different requests”, “restricted for service to particular requests or request formats”, “different clients/user sessions”, and “include different session identifiers”) and see column 6, lines 46 through column 7, line 24, (“a cookie may identify ... a client session” and “identify ‘level’ of client”). Therefore, it would have been

obvious to one having ordinary skill in the art at the time the invention was made to have modified Redmond et al. to include the teachings of Jacobs et al. because these teachings would allow for a record of who is connected to the system and what they have previously done while interacting with the system to influence future response.

As to claim 10, see the citations directed to claim 4 above.

As to claim 12, see the citations directed to claim 6 above.

As to claim 13, see the citations directed to claim 8 above.

As to claim 14, Redmond et al. teaches a system for tracking data, the system comprising:  
at least one computer (see figure 1), the at least one computer comprising:  
at least one handler for processing a request that is at least one of: providing update data for a tracked data item or requesting data for the tracked data item and the request includes a tracking type identifier (see paragraphs 0040-0042 and see paragraph 0044, “SAO A” and “SAO B”); and

a management system for receiving the request from a client, determining an identification of the particular tracked data item in the request, and selecting one of the at least one handlers based on the identification of the particular tracked data item, wherein the selected handler provides the particular tracked data item to the data application (see paragraph 0042, 0044, and 0045);



wherein the selected handler obtains response data for the tracked data item, including retrieving at least one measurable objective associated with the tracked data item and providing the at least one measurable objective to the data application, and

generates a response based on the response data, wherein the handler formats the response for the client based on the tracking type identifier and stores the response in a recordable medium (see paragraphs 0050 and 0055-0056).

While Redmond et al. discusses “flags indicating the requesting player or client”, (paragraph 0052) and “time-out programs which terminate connections between the player or client”, (see paragraph 0057), Redmond et al. does not distinctly disclose a session identifier and formatting a response based on the session identifier.

However, Jacobs et al. teaches this, see column 3, line 51 through column 4, line 8, (“session-aware cache ... responds differently to different requests”, “restricted for service to particular requests or request formats”, “different clients/user sessions”, and “include different session identifiers”) and see column 6, lines 46 through column 7, line 24, (“a cookie may identify ... a client session” and “identify ‘level’ of client”). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Redmond et al. to include the teachings of Jacobs et al. because these teachings would allow for a record of who is connected to the system and what they have previously done while interacting with the system to influence future response.

As to claim 15, Redmond et al., as modified, teaches the at least one computer further including comprising a data application for providing the response data to the selected handler (see Redmond et al. paragraph 0056).

As to claim 16, Redmond et al., as modified, teaches the at least one computer further including further comprising a client system for providing client data based on the client (see Redmond et al. paragraph 0044).

As to claim 17, Redmond et al., as modified, teaches the at least one computer further including a format system for providing format data based on a predefined tracking standard (see Redmond et al. paragraph 0042).

As to claim 18, Redmond et al. teaches a program product stored on a physical recordable medium for tracking data, the program product including program code, which when executed, causes a computer system to:

receive a request from a client, wherein the request is at least one of: providing update data for a tracked data item or requesting data for the tracked data item, and the request includes a tracking type identifier (see paragraphs 0040-0041 and see paragraph 0044, “SAO A” and “SAO B”);

determine identifications of the particular tracked data item in the request and the particular client from which the request was received (see paragraphs 0044 and 0045);

select a handler based on identifications of the particular tracked data item and the particular client, wherein the selected handler provides the particular tracked data item to a data application (see paragraph 0042);

obtain response data for the tracked data item from a data application (see paragraph 0050);

retrieve at least one of: a trackable object and at least one measurable objective associated with the tracked data item;

provide the at least one of: a trackable object and at least one measurable objective to the data application;

generate a response based on the response data using the handler, wherein the handler formats the response for the client based on the tracking type identifier (see paragraph 0055); and provide the response to the client (see paragraph 0056).

While Redmond et al. discusses “flags indicating the requesting player or client”, (paragraph 0052) and “time-out programs which terminate connections between the player or client”, (see paragraph 0057), Redmond et al. does not distinctly disclose a session identifier and formatting a response based on the session identifier.

However, Jacobs et al. teaches this, see column 3, line 51 through column 4, line 8, (“session-aware cache ... responds differently to different requests”, “restricted for service to particular requests or request formats”, “different clients/user sessions”, and “include different session identifiers”) and see column 6, lines 46 through column 7, line 24, (“a cookie may identify ... a client session” and “identify ‘level’ of client”). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have

modified Redmond et al., to include the teachings of Jacobs et al., because these teachings would allow for a record of who is connected to the system and what they have previously done while interacting with the system to influence future response.

As to claim 20, Redmond et al., as modified, teaches further program code, which when executed, causes the computer system to:

obtain format data based on a response format (see Redmond et al., paragraph 0041);  
obtain client data based on the client (see Redmond et al., paragraph 0050); and  
format the response data using the format data and the client data (see Redmond et al., paragraphs 0043 and 0050-0052).

#### ***Response to Arguments***

4. Applicant's arguments filed 10 August 2009 have been fully considered but they are moot in view of the new grounds of rejection.

Applicant has stated in the remarks that, "Applicant traverses these rejections for reasons already of record." As the grounds of rejection were newly presented in the last Office action, the applicant is respectfully requested to indicate all arguments that are still germane to the rejections given. If the applicant does not agree with the responses made by the examiner, the applicant should indicate so on the record specifically pointing out the examiner's error. The above statement fails to comply with 37 CFR 1.111(b) because it amounts to a general allegation

that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to the applicant's arguments that the combination of references does not distinctly disclose "obtaining response data from the data application based on the tracked data item using the at least one computing device, wherein the obtaining includes retrieving at least one measurable objective associated with the tracked data item, and providing the at least one measurable objective to the data application", the arguments have been considered, but are not deemed persuasive. Paragraph 0040 discloses the use of a "testing engine" for use in the student tracking system. It is known in the art that a "testing engine" would both retrieve questions from the back end and provide them to the user and send answers provided by the user to the back end. Thus, "obtaining response data from the data application" would be considered obtaining the users response from a data application. Also, "obtaining" and "providing the at least one measurable objective to the data application" would be considered retrieving and providing a question to be answered by a user. Therefore, this limitation is obvious in view of the testing engine disclosed by Redmond et al.

In response to the applicant's arguments that the combination of references does not disclose "receiving a request from a client on at least one computing device, wherein the request is at least one of providing update data for a tracked data item or request data from the tracked data item, and the request includes a tracking type identifier", the arguments have been considered, but are not deemed persuasive. Paragraph 0040 states that, "the translation modules

22 translate to a common language used by the tracking engine. . . . If the incoming dated is in this format it is routed directly to the engine.” This means that there at least two different types of languages that a requested can be received in and that there is some sort of identifier that indicates what language a request is received in so that the translator can translate properly. Further, paragraph 0045 indicates that a “request contains two fields indicating what product (and from which vendor) has sent the request.” Clearly this is an identifier of the type of tracker that is running on the client system.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. Bétit whose telephone number is (571)272-4075. The examiner can normally be reached on Monday through Friday 9:30 am to 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571) 272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Tony Mahmoudi/  
Supervisory Patent Examiner, Art Unit  
2169

jfb

1 Dec 2009